

REMARKS

Claims 1-31 are pending in the application. Claims 11-13, 20, and 27-30 have been withdrawn from the application as being directed to a non-elected invention. Therefore, claims 1-10, 14-19, 21-26, and 31 are at issue.

Claim 1 has been amended to recite that the metal can end is a food or beverage metal can end. Support can be found in the specification at page 1, lines 21-23. Support also can be found in the specification in disclosure relating to retort testing at page 3, line 28 through page 4, line 4; page 29, line 29 through page 30, line 5; and pages 37-41. Retort testing is performed on food metal cans ends to duplicate food processing conditions and determine the suitability of the metal can end for food contact.

The abstract is objected to because of a typographical error. Applicants submit a substitute abstract correcting this typographical error. It is submitted that the objection to the abstract has been overcome and should be withdrawn.

Claim 2 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite because of a redundant recitation of "for about one to about five minutes". Applicants have amended claim 2 to delete the redundant recitation, and therefore have overcome this rejection under 35 U.S.C. §112, second paragraph.

Claim 22 stands rejected under 35 U.S.C. §112, second paragraph, because of the recitation of "VM&P naphtha". The examiner contends that the objected to term is a trademark or tradename. Applicants traverse this rejection because "VM&P" is not a trademark or tradename.

The term "VM&P naphtha" is a common term used in the art for an aliphatic petroleum naphtha having specific properties. As shown in Exhibit A, submitted concurrently with this response, a 1976 brochure containing the physical properties of common organic solvents includes an entry for VM&P naphtha with a variety of physical constants. Exhibit A shows that VM&P naphtha can be properly identified by persons skilled in the art. Further, the term is not a trademark, so no question of improper use or dilution is present.

Because the term VM&P naphtha is commonly used in the art to identify a specific aliphatic hydrocarbon having identifiable properties, it is submitted that claims 22 fully complies with 35 U.S.C. §112, second paragraph, and that the rejection should be withdrawn.

Claims 1-10, 18, 22-26, and 31 stand rejected under 35 U.S.C. §103 as being obvious over An et al. U.S. Patent Publication No. 2002/0172760 ('760 publication) in view of Watt U.S. Patent No. 3,936,557 ('557). Applicants traverse this rejection.

The present invention is directed to a method of imparting corrosion resistance comprising applying a radiation-curable coating composition to a score line on a food or beverage metal can end, and curing the composition by exposure to radiation. The composition comprises:

- (i) a difunctional compound (elected species is a diepoxy compound),
- (ii) polyfunctional reactive diluent,
- (iii) a cationic photoinitiator (elected species is a sulfonium salt), and
- (iv) up to about 12%, by weight, of a monofunctional reactive diluent (elected species is an epoxy compound).

The polyfunctional reactive diluent can be a polyhydroxy compound (see claim 14).

The '760 publication is directed to a process and apparatus for the repair of a protective coating on converted can ends. At paragraph [0031], the '760 publication discloses an example of a commercially available radiation curable composition by trademark only. The reference contains no further teaching or suggestion with respect to a radiation curable coating that can be used in the disclosed method and apparatus. The examiner admits that the '760 publication fails to teach a radiation curable coating containing (i) through (iv) above, and further the '760 publication fails to teach or suggest *any* component of the radiation-curable coating. The '760 publication fails to disclose whether the radiation curable composition is suitable for food and beverage can ends, and provides no teaching or suggestion as how to design a composition suitable for such use.

The '557 patent is directed to an epoxide blend for coating compositions. The epoxide blend contains a diepoxide and can contain a low viscosity monoepoxide. The blend

also can contain a cationic polymerization inhibitor, and can be polymerized through irradiation ('557 patent abstract).

However, the '557 patent fails to teach or suggest the polyfunctional reactive diluent recited in the present claims. Although the examiner contends that a polyglycidyl ether is a claimed polyfunctional reactive diluent having at least two functional groups and capable of reacting with epoxy or vinyl groups of the difunctional compound. In the present application, the difunctional compound is a diepoxy compound, a divinyl compound, or a vinyl epoxy compound. The polyglycidyl ether of the '557 patent therefore is a difunctional compound, *not* a polyfunctional reactive diluent as asserted by the examiner. Further, the polyglycidyl ether of the '557 patent would not react with the diglycidyl-bisphenol A resins of the '557 patent because both compounds contain epoxy groups. Accordingly, the polyglycidylether does not fall within the definition of a present polyfunctional reactive diluent (see specification, page 16, lines 14-20).

The '557 patent therefore fails to teach or suggest every element of the composition recited in the claims. The '760 publication fails to teach *any* components of the composition recited in the claims. Because the combination of references fails to teach or suggest every element of the claims, a combination of the '760 publication and the '557 patent can not render the present claims obvious. It is submitted that the rejection therefore is in error and should be withdrawn.

Claims 1-10, 14-19, 21-26, and 31 stand rejected under 35 U.S.C. §103 as being obvious over the '760 publication in view of Smith U.S. Patent No. 4,256,828 ('828). Applicants traverse this rejection. Applicants traverse this rejection.

The '760 publication has been discussed above, and as noted, fails to provide *any* information with respect to (a) the components of the composition used as a repair agent, (b) whether the repair agent is suitable for food and beverage metal can ends, or (c) the components needed to provide a repair agent useful for food and beverage metal can ends.

The '828 patent is directed to photocopolymerizable compositions containing an epoxide of functionality greater than about 1.5, a hydroxyl compound, and a photoinitiator

(column 2, lines 23-26). The reference discloses that by altering the number of epoxy equivalents in relation to the number of hydroxyl equivalents, the properties of the cured compositions are altered ('828 patent, column 2, lines 37-52).

At column 12, lines 46-65, the '828 patent discloses a variety of uses for the cured compositions, including resistant images, offset plates, printed circuitry, decorations, stencil marking, and lithography. The '828 patent discloses that the cured compositions can be used as a way of a number of substrates including metal, plastic, paper, glass, rubber, wood, and ceramics. The '828 patent fails to provide any teaching or suggestion as to photocurable compositions suitable for food and beverage metal can ends.

In view of the sparse teachings of the '760 publication, i.e., a single commercial product, and the broad teachings of the '828 patent, a person skilled in the art could not pick an choose the components needed to arrive at a food and beverage metal can end composition, as presently claimed. Applicants claim a composition suitable for food and beverage metal can ends, and show the advantages provided by such metal can ends in the specification, i.e., testing desired to show applicability for food and beverage metal can ends, such as retort testing, blushing, etc. A person skilled in the art could not arrive at such a composition from the teachings of the '760 publication in view of the '828 patent.

The Court in *KSR International Co. v. Teleflex Inc. et al.*, 127 S.Ct, 1727 (2007) held that a patent composed of several elements is not proved obvious merely by demonstrating that each of the elements was, independently, known in the prior art (*KSR*, 127 S.Ct. at 1741). The court further emphasized the importance of *identifying a reason* that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does, which the examiner has not provided (*Id.*, emphasis added).

In addition, applicants respectfully note that MPEP §§2142 and 2143 require that the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicants' disclosure. *In re Vaeck*, 947 F.2d 4899 (Fed Cir. 1991). The mere fact that the prior art may be modified in the manner suggested by the examiner does *not* make the modification

obvious unless the prior art suggests the desirability of the modification. *In re Grodan*, 733, F.2d at 902, 221 USPQ at 1127. *In re Fritch*, 23 USPQ 2nd 1780, 1783-1784 (Fed. Cir. 1992). It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Gorman*, 933 Fed. 2nd 982, 987, 18 USPQ 2nd 1885, 1888 (Fed. Cir. 1991). *In re Fritch*, 23 USPQ 2nd 1780 at 1784 (Fed. Cir. 1992).

To conclude that a combination of the '760 publication and the '828 patent renders the present claims obvious is speculative and appears to be a hindsight reconstruction of the present claims. The '760 publication contains no disclosure that would lead a person of skill in the art to use a composition recited in the present claims for use on a food or beverage metal can end. The '828 patent is not directed to coatings for food and beverage can ends, and fails to provide any teachings or suggestions that would lead a person skilled in the art to such a coating.

It is therefore submitted that the rejection of the present claims as being obvious over a combination of the '760 publication and the '858 patent is in error and should be withdrawn.

Claims 1-10, 14-19, 21-26, and 31 stand rejected under 35 U.S.C. §103 as being obvious over the '760 publication in view of Koleske U.S. Patent No. 5,043,221 ('221). Applicants traverse this rejection.

The '760 publication has been discussed above, and, as noted, fails to provide *any* information with respect to (a) the components of a composition used as a repair agent, (b) whether the repair agent is suitable for food and beverage metal can ends, or (c) the components needed to provide a repair agent useful for food and beverage can ends.

The '221 patent is directed to compositions useful as a coating on circuit boards, electrical components, specialty metals, ceramics, plastics, and composites (column 1, lines 62-68). The reference is not remotely related to a composition useful in a method of coating food and beverage metal can ends. Rather, the conformed coatings of the '221 patent provide enhancement of electrical circuit reliability (column 5, lines 60-62).

The properties required to enhance electrical circuit reliability are substantially different from the properties required for a food and beverage metal can end coating. For example, the '221 patent teaches that the composition had *poor* adhesion on steel panels, thereby making such composition unsuitable for food and beverage metal can ends. This is particularly true because coatings of food and beverage metal can ends must demonstrate excellent adhesion, i.e., must pass the rigorous retort, adhesion, blush resistance, feathering, and gasket damage test required for food and beverage metal can ends. See specification, pages 36-44.

Analogue to the rejection based on the '760 publication in view of '828 patent, a rejection based on the '760 publication and the '221 patent fails to teach or suggest persons skilled in the art how to modify the disclosed compositions in a way that arrives at the presently claimed invention without using the present specification as a template and reconstructing the claims by hindsight.

Therefore, for the reasons set forth above, and for the reasons that the present claims would not have been obvious over a combination of the '760 publication and the '828 patent, it is submitted that the rejection of the claims under 35 U.S.C. §103 over a combination of the '760 publication and the '221 patent is in error and should be withdrawn.

In summary, it is submitted that all pending claims are in a form and condition for allowance. An early and favorable action on the merits is respectfully requested.

Should the examiner wish to discuss the foregoing, or any matter of form in an effort to advance this application toward allowance, the examiner is urged to telephone the undersigned at the indicated number.

Dated: March 30, 2010

Respectfully submitted,

By 
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ALIPHATIC PETROLEUM NAPHTHAS	A.P.I. Gravity, 60/60°F	H ₂ O≡I Specific Gravity, 60/60°F	Pounds per Gallon, 60°F	Coeff. of Expan., Per 1°C	Δ Spec. Gravity, 1°C/1°C	Refract. Index, @ 20°C	Distillation Range @ 760 mm Hg		Vapor Press., 60°F (mm Hg)	Evaporation Residue, 200°C (wt. %)	Kaurf. Point, °C	Aniline Point, °C	Flash Point, °C	Explosive Limits % by Vol. in Air	Totality M.A.C. ppm in Air	Composition % By Volume FIA Set- back retn	Ole- fin Con- tent (Vol.-%)	Cet- ane Index	Sulfur Con- tent, ppm	Hydro- carbon Class		
							5% to 90%	95%														
							°C	°C														
HEPTANE	71.1	0.687	5.79	0.0011	0.0006	1.3912	94.98	201.208	43.0	4.5	30.0	153	<20	1.2	6.7	500	99.9+	<0.01	0	7.4	1	
HEXANE	76.5	0.6803	5.662	0.0015	0.0007	1.3812	66.71	151.160	137.0	8.1	30.5	147	<0	1.2	7.5	500	99.9+	<0.01	0	7.3	1	
KEROSENE	41.4	0.8184	6.814	0.0009	0.0080	1.485	177.272	350.522	0.4	3.4	34	144	148	1.0	8.0	500	89.0+	<1	0	19	7.2	1
LACQUER DILUENT 1	57.3	0.7495	6.239	0.0011	0.0066	1.4154	197.107	206.225	38.0	3.9	43	109	<20	1.2	6.8	500	84.0+	<1	15	0	7.7	1
NAFTHOL SPIRITS* 66	51.8	0.7715	6.423	0.0008	0.0048	1.4258	187.179	315.355	2.0	0.12	33	152	104	1.0	6.0	200	99.7	0	0	0.3	7.5	1
MINERAL SEAL OIL	57.3	0.8385	6.780	0.0009	0.0049	1.4655	278.516	523.600	<0.01	<0.1	27.4	189	245*			200	97.0	0	0	3	7.2	1
MINERAL SPIRITS	49.7	0.781	6.501	0.0009	0.0057	1.4347	158.195	316.383	2.0	0.06	36	140.8	105	0.7	6.0	200	93.1	0	0	6.9	7.5	1
ODORLESS INSECTICIDE BASE	51.2	0.774	6.43	0.0009	0.0059	1.4240	190.254	374.490	0.23	0.01	25	175	132	1.0	6.0	200	100.0	0	0	0	7.4	1
ODORLESS MINERAL SPIRITS	54.2	0.7620	6.344	0.0011	0.0070	1.4240	179.198	354.388	0.5	0.08	27	185	129	1.0	6.0	200	98.1	0	0	<1	7.1	1
PETROLEUM ETHER	68.2	0.653	5.36	0.0013	0.0073	1.3970	35.40	95.102	423.0	2.8	26	131	<0	1.4	8.0	500	100.0	0	0	0	7.0	1
RUBBER SOLVENT 1	71.9	0.6957	5.791	0.0013	0.0077	1.3908	44.132	111.270	152.0	2.8	32	147	<0	1.3	7.4	1500	100.0	0	0	0	7.3	1
RUBBER SOLVENT 2	74.0	0.688	5.73	0.0013	0.0077	1.3978	44.123	111.255	152.0	4.9	30	154	<0	1.3	7.4	1500	97.0	0	0	0.5	7.4	1
STANDARD SOLVENT	51.8	0.7720	6.427	0.0009	0.0055	1.4278	158.198	312.387	2.0	0.21	33	156	108	0.7	6.0	200	99.7	0	0	0.3	7.6	1
TEXTILE SPIRITS*	77.4	0.6724	5.658	0.0013	0.0083	1.3873	148.190	324.287	2.0	0.45	30	151	<0	1.2	6.7	500	97.1	2	<1	0	7.2	1
VM & P NAPHTHA	59.9	0.739	6.15	0.0011	0.0068	1.4273	118.142	244.287	2.0	0.45	34	140	102	1.1	5.0	500	90.5	0	0	1.8	7.7	1
#40 SPIRITS	40.4	0.873	6.85	0.0009	0.0057	1.4404	135.208	311.407	0.23	0.01	26.0	118	103	0.5	6.0	500	91.1	<1	0	8	7.6	1
#40 SOLVENT	45.1	0.8012	6.671	0.0009	0.0059	1.4404	189.262	372.503	0.23	0.01	33	155	133	1.4	6.8	200	91.1	<1	0	8	7.6	1
VM & P NAPHTHA 66	56.0	0.7347	6.283	0.0011	0.0069	1.4277	126.142	316.288	2.0	1.0	35	143	65	0.9	6.0	500	99.7	<1	<1	0	7.6	1
MINERAL SPIRITS 66	51.2	0.7724	6.420	0.0009	0.0055	1.4277	159.197	315.386	2.0	0.21	33	155	108	0.7	6.0	200	99.7	0	0	0.3	7.6	1
#140 SOLVENT 66	48.6	0.788	6.541	0.0009	0.0055	1.4340	191.203	376.397	0.5	0.11	31	162	147	1.0	7.0	200	99.7	0	0	0.3	7.6	1

* Trade Mark AMSCO Div., Union Oil of Calif.
* Open Cup

* Trade Mark AMSCO Div. Union Oil of Calif.

* Open Cup

TERPENE HYDROCARBONS	Specific Gravity 60/60°F	Pounds Per Gall. 60°F	Coeff. of Expan. Per 1°C	Δ Density Per 1°C	Refract. Index @ 20°C	Distillation Range 5% to 90%		Vapor Pressure @ 200°C mm Hg	Evaporation Residue @ 200°C ml/bbl	Kaurf. Point °C	Aniline Point °C	Flash Point °C	Fire Point °C	TLV ppm TLV mg/m ³	Solubility Parts Per 100	Hydro- carbon Content Gals.
						5% °C	90% °C									
TURPENTINE GUM	0.867	7.24			1.466	155.160	311.340		15	0.38	64	< 40	93	100	8.1	1
TURPENTINE STEAM DISTILLED	0.862	7.17			1.466	157.164	314.327				69	< 40	91	100	8.1	1
ALPHA PINENE	0.863	7.20			1.466	156.138	313.318		14	0.41	56	< 40	91			
DIPENTENE #122	0.853	7.09	.00094	.00035	1.475	176.183	349.361	1.3			79	< 40	120			
DIPENTENE #213	0.854	7.10	.00095	.00045	1.475	176.184	349.363	1.3	33		< 32	< 40	120		8.5	1
SOLVENT #1	0.858	7.15	.00095	.00045	1.475	176.184	349.363	2.0	33		0.18	< 40	120			
SOLVENT #2	0.860	7.17	.00092	.00032	1.473	173.184	343.363	2.0				< 40	120			
ALPHA TERPINEOL	0.941	7.85			1.484	218.220	423.428					< 23	< 40	115		
TERPINEOL #218	0.937	7.80			1.482	216.220	422.425	> 1	500			< 4	< 10	190*		
HERCOST PINE OIL	0.923	7.78			1.481	206.220	409.428					< 4	< 10	180	8.4	1
YAMOR® 302 PINE OIL	0.941	7.85	.0009	.00057	1.481	212.220	413.428					< 3	170		8.6	1
YAMOR® 302V PINE OIL	0.923	7.67	.0009	.00035	1.480	198.221	388.430					< 15	130		8.6	1

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CHLORINATED SOLVENTS	Mole Weight	Specific Gravity 20/20°C	Pounds per Gallon 60°F	Coeff. of Expan. Per 1°C	Δ Spec. Gravity Per 1°C	Refrac- tive Index @ 20°C	Distillation Range 5% to 95%		Vapor Pressure @ 20°C (mm Hg)	Evaporation Rate Carbon Tetrachloride = 1.0		Kaurf. Point °C	Freeze Point °C	Flash Point °C	Explosive Limits % by Vol. in Air	T.V. Turbidity in Air	Solubility in Water g/g	Hydro- carbon Content %		
							5%	95%		Minutes	Per Cent									
CARBON TETRACHLORIDE	153.8	1.589	13.21	0.0012	0.014	1.470	77.78	170.172	90.0	1.0	1.0	104	-23	NONE	NONE	10.5	8.6	1		
CHLOROTRIFLUOROMETHANE + NU & VG	133.4	1.322	10.99	0.0013	0.013	1.434	74.90	165.194	100.0	1.0	1.0	124	-37.9	NONE	NONE	10.5	8.5	1		
DICHLOROETHYL ETHER	143.0	1.222*	10.17*			1.435	179.181	354.385	<1	58.4	0.02	0.1	48	-30	NONE	NONE	15	8.8	11	
DICHLOROISOPROPYL ETHER	171.0	1.114*	9.29*			1.446	187.200	368.392	0.85	124.0	<0.1	0.05	<-20	185			15			
DOWCORNE®	138.5	1.385	11.54	0.00122	0.0135	1.4512	74.122	165.231.6	83.0	2.0	0.5	101	-36.6	NONE	NONE	30	9.8	1		
ETHYLENE DICHLORIDE	99.0	1.232	10.42	0.00117	0.012	1.427	81.5-83.5	179.186	61.6	1.3	0.77	4.46	-35.7	60	6.2	13.9	30	9.8	1	
METHYLENE CHLORIDE TECH.	84.9	1.320	10.98	0.0014	0.016	1.421	40.0-40.8	104.105.5	34.0	0.4	2.5	14.5	-97	NONE	NONE	200	9.7	1		
MONOCHLOROBENZENE	112.6	1.105	9.19			1.5215	131.7-132	269.270	300*	5.4	0.19	1.07	133	-45.6	85	1.3	7.1	75	9.5	1
ORTHOCHLOROBENZENE	142.0	1.303	10.84	0.00085	0.006	1.5482*	180.183	356.562	0.348	28.0	0.03	0.15	240	-22	165	2.2	9.2	30	10.0	1
PERCHLOROETHYLENE	165.8	1.619	13.47	0.00102	0.012	1.5079	121.1-123	250.234	13.0	2.8	0.34	2.1	92	-22.4	NONE	NONE	100	9.3	1	
PERCHLORODICHLORIDE	113.0	1.159	9.65	0.0011	0.010	1.471	96-98	204.208	43.0	1.8	0.36	3.22	93	<-70	60	3.4	14.5	75	9.0	1
TRICHLOROETHYLENE 1, 1, 2	133.4	1.432	11.91			1.4710	110-115	230.239	16.7	3.0	0.3	1.9		NONE	NONE	15	9.6	1		
TRICHLOROETHYLENE - Fireclon	131.4	1.459	12.14	0.00117	0.0006	1.4736	87.88	188.190	59.0	1.3	0.77	4.46	-66.4	NONE	NONE	100	9.3	1		
TRICHLOROETHYLENE - Dow's	131.4	1.456	12.11	0.00117	0.0006	1.4736	87.88	188.190	59.0	1.3	0.77	4.46	-66.4	NONE	NONE	100	9.3	1		
TRICHLOROETHYLENE	131.5	1.454	12.10			1.5690	214.219	418.427	22*	95.0	0.01	0.06	16.5	210			30	9.3	1	
CC #49		1.370	11.41	0.0013	0.015	1.44	39-123	103.354	345.0	1.3	0.77	4.46		NONE	NONE	100	9.6	1		
SC #149 COLD DEGREASER		0.939	7.82				42-201	108.386		30.0	0.03	0.17					8.0	1		
SC #149 COLD DEGREASER		0.947	7.89				42-160	106.370		10.0	0.1	0.5					8.3	1		
FLUOROCARBON SOLVENTS																				
FREON® Precision Cleaning Agent	1.5649	13.06	0.0016		1.354	47.6-B.P.	117.6-B.P.	334°		1.7		31	-35	NONE	NONE	1000				
FREON TA Solvent	1.406	11.73	0.00158		1.3503*	43.6-B.P.	110.5-B.P.	380°				31	-101	NONE	NONE	1000				
FREON TC Solvent	1.311	10.93				36.3-B.P.	97.3-B.P.						>97.3	NONE	NONE	570				

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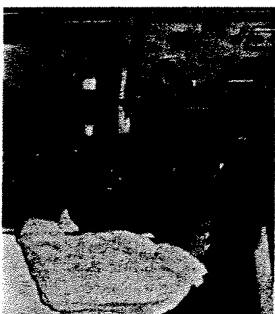
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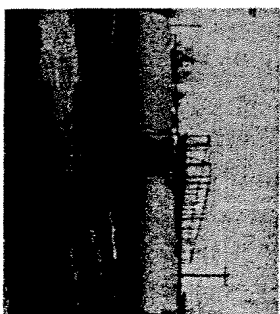
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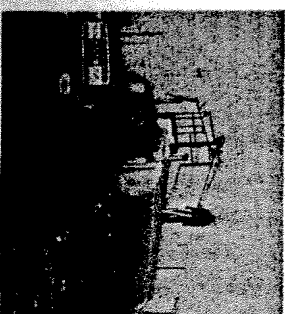
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